

OFFICE OF INFORMATION PRACTICES

ANNUAL REPORT 2006

This report to the Governor and the Legislature summarizes the activities and findings of the Office of Information Practices in the administration of the public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes, and the open meetings law, Part I of chapter 92, Hawaii Revised Statutes, from July 1, 2005 to June 30, 2006.

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Director's Message

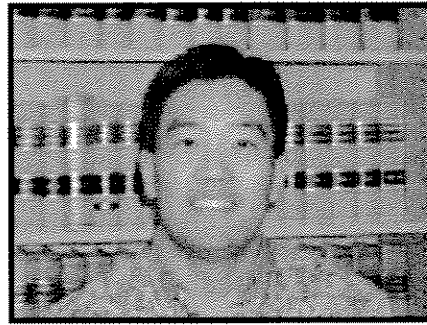
A Workable Scheme

Each open government law across our country serves the same purpose: "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). Achieving an informed citizenry, however, can create difficulties for government boards and agencies in efficiently and effectively carrying out the business of government.

The resolution lies -- for all open government laws -- in continual efforts to adapt those laws to achieve both open and effective government. This resolution concerns all who administer these laws and whose work must be governed by them:

To be sure, achieving an informed citizenry is a goal often counterpoised against other vital societal aims. Society's strong interest in an open government can conflict with other important interests of the general public -- such as the public's interest in the effective and efficient operations of government; in the prudent governmental use of limited fiscal resources; and in the preservation of the confidentiality of sensitive personal, commercial and governmental information. **Though tensions among these competing interests are characteristic of a democratic society, their resolution lies in providing a workable scheme that encompasses, balances, and appropriately protects all interests, while placing primary emphasis on the most responsible disclosure possible.** It is this accommodation of strongly countervailing public concerns, with disclosure as the animating objective, that the [federal Freedom of Information Act] seeks to achieve.

Introduction to the federal Freedom of Information guide, U.S. Department of Justice (emphasis added).



OIP Director Les Kondo

The Office of Information Practices ("OIP") administers Hawaii's open government laws: Hawaii's public records law, the Uniform Information Practices Act (Modified), and Hawaii's open meetings law, commonly referred to as the Sunshine Law. In administering these laws, OIP performs a wide range of functions, from providing legal guidance both to the public and to government bodies on application of those laws, to assisting boards and agencies in complying with the laws, to conducting inquiries and ruling on denial of access issues. OIP must also report to the legislature on the activities and findings of OIP, including recommendations for legislative change.

In past years, OIP has introduced legislation to amend provisions of the UIPA and the Sunshine Law. In some instances, OIP brought legislation where it believed amendment was appropriate to address issues repeatedly raised by government boards and agencies as sources of frustration that needlessly hindered efficient government. Over the years, changes have been grafted onto the original laws. Both the public and government bodies, however, have expressed the need for greater change, particularly to address application of the Sunshine Law to circumstances that may not have been

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contemplated at the time the Sunshine Law was enacted in 1975 or to amend the law where legal interpretation, according to the legislature's mandate of construing the Sunshine Law's open meeting requirements liberally and its exceptions strictly, is believed to hinder openness or unnecessarily hamper the efficiency or efficacy of boards.

For example, the Sunshine Law's strict requirements prove especially problematic for more non-traditional boards, such as neighborhood boards, that lack defined limits of their "board business," that lack flexibility because of outside constraints placed on their operating procedures, and that may not require the same level of accountability as traditional boards, which set policy and expend public funds.

The neighborhood boards serve a different function. They provide a voice to the opinions of the various neighborhoods on any government issue. The outer limits of their "board business," thus, are broad and undefined and, accordingly, the limits on their board members' discussions outside of a meeting are broad and undefined. The boards also have a continual turnover of members, often with little government board experience and thus little or no familiarity with the Sunshine Law. The boards, per the Neighborhood Plan, may only meet once a month, yet they must follow all of the same strict requirements placed on traditional boards that have the flexibility often necessary to meet those requirements. Given these factors, compliance with the strict requirements of the Sunshine Law is a continual problem that, at times, requires these boards to expend a disproportionate amount of their limited meeting time to resolve.

Clearly, the Sunshine Law's broad provisions do not always "fit" a particular board or situation. The experience collectively gained through the Sunshine

Law's application over the past thirty years provides insights into application of the law's broad provisions in a myriad of situations.

To address the concerns raised by both the public and government bodies, OIP recommends that the legislature direct an overall review of the Sunshine Law by representatives of the public, the media, government boards and agencies, and OIP. Review of the entire statute at this time would allow use of our gained collective experience with its provisions to finely tune a "workable scheme that encompasses, balances, and appropriately protects all interests, while placing primary emphasis on the most responsible disclosure possible."

Although not all issues may be resolved to the satisfaction of parties on both sides of the issues, this review would provide a non-judicial arena for all parties to air concerns and to provide input towards adapting our statute to address those concerns where appropriate. The legislature may use this material to amend the statute where it deems fit or to simply clarify or reaffirm the legislature's intent.

Aloha,
Les Kondo
Director

Executive Summary

The Office of Information Practices (“OIP”) was created by the legislature of the State of Hawaii (the “Legislature”) in 1988 to administer Hawaii’s new public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (“HRS”) (the “UIPA”), which took effect on July 1, 1989. The UIPA applies to all state and county agencies except the non-administrative functions of the judiciary.

Under the UIPA, all government records are public and must be made available for inspection and copying unless an exception provided for in the UIPA authorizes an agency to withhold the records from disclosure. Recognizing that “[t]he policy of conducting governmental business as openly as possible must be tempered by a recognition of the right of the people to privacy, as embodied in . . . the Constitution of the State of Hawaii[,]” the Legislature created one exception to disclosure that balances an individual’s privacy interest against the public’s right to open government.

In 1998, OIP was given the additional responsibility of administering the open meetings law, Part I of chapter 92, HRS (the “Sunshine Law”). The Sunshine Law requires state and county boards to conduct their business as openly as possible in order to open up the governmental processes to public scrutiny and participation.

The law thus requires that, unless a specific statutory exception is provided, the discussions, deliberations, decisions and actions of government boards must be conducted in a meeting open to the public, with public notice and with the opportunity for the public to present testimony.

Enforcement

OIP is intended to be an alternative means for the public to appeal an agency’s denial of access to records. When OIP determines that a record must be disclosed, the UIPA specifically provides that the agency “shall make the record available” to the requester. In FY 2006, OIP received 46 appeals from the public.

In administering the Sunshine Law, OIP conducts investigations into possible violations by state and county boards of the open meetings provisions. In FY 2006, OIP opened 22 new investigations based upon complaints from the public and on OIP’s own initiative.

OIP also tracks litigation in the courts that involve issues concerning the UIPA or the Sunshine Law (see pages 11-13). In FY 2006, OIP tracked 2 new lawsuits and continued to monitor 5 ongoing cases involving UIPA issues.

Implementation

OIP provides guidance and assistance to the public and government entities by a variety of means. In the past fiscal year, OIP received over 1,100 inquiries and requests from the public, government agencies and government boards (see page 13). The majority of those requests were handled through OIP’s Attorney-of-the-Day service, a program that allows the public and government entities to receive immediate guidance on both UIPA and Sunshine Law issues (see page 13-19). Of the inquiries and requests received during FY 2006, about one-third (323)

involved Sunshine Law issues (see page 21), with the remaining inquiries and requests relating to the UIPA.

OIP is directed by statute to receive and make publicly available reports of records that are to be maintained by all agencies. These reports are maintained on the Records Report System (“RRS”), which was converted from a Wang computer-based system to an Internet-based system in FY 2003. Since FY 2004, OIP has assisted state agencies in updating their records reports and has made public access to the RRS available through its website.

OIP also developed new materials to facilitate data entry by the agencies and a guide to be used by both the public and agencies to locate records, to retrieve information, and to generate reports from the RRS. All of these materials are posted on OIP’s website for easy access by agencies and the public. To date, state and county agencies have reported over 33,600 records on the RRS (see pages 30-31).

Education

OIP continues to make presentations and provide training on the UIPA and the Sunshine Law as part of its mission to educate government agencies and boards regarding the open government laws and to assist them in complying with those laws (see page 36).

In FY 2006, OIP continued to step up its educational efforts, responding to requests for training by providing 21 UIPA training sessions and 19 Sunshine Law training sessions. Attendees to all training sessions are informed of and encouraged to use the resources available to them, including those provided by OIP.

In FY 2006, OIP produced its traditional print publications, including the *Openline* newsletter and the *Office of Information Practices Annual Report 2005*. OIP also created a new 36-page guide to the UIPA, intended primarily to help agencies understand their responsibilities under the statute and to guide agencies in responding to record requests. OIP continued to expand its website launched in April 1998 (see pages 34-35), which provides a major source of information and guidance in an economical and easily accessible format.

Budget

OIP's largest budget year was FY 1994, when the annual budget was \$827,537, funding a staff of 15 positions. In FY 1998, the Legislature sharply cut OIP's budget and eliminated three positions. Since FY 1999, OIP's annual budget has been approximately \$350,000 per year. During FY 2006, OIP had personnel costs of \$360,266 and operational costs of \$35,220 for a total allocation of \$395,486. See **Figure 2** on page 6.

FY 2006, OIP functioned with 8 filled positions. This included the director, two full-time staff

attorneys, two part-time staff attorneys, and three staff members.

OIP continues to look at ways to best utilize its limited resources to provide effective and timely assistance to the public and to government agencies and boards.

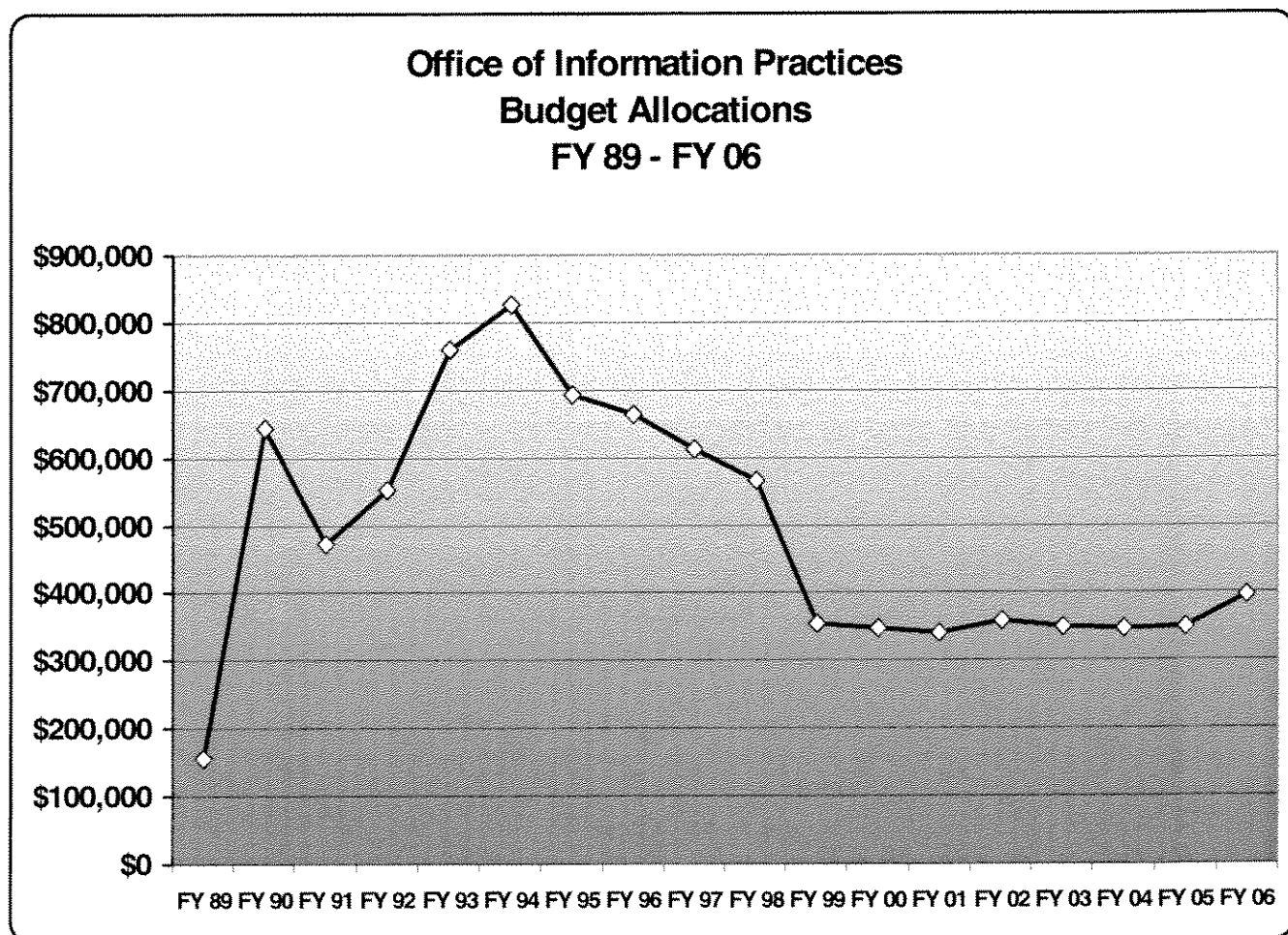


Figure 1

**Office of Information Practices
Budget FY 1989 to FY 2006**

Fiscal Year	Operational Costs	Personnel Costs	Allocations	Approved Positions
FY 06	35,220	360,266	395,486	8
FY 05	35,220	314,995	350,215	8
FY 04	35,220	312,483	347,703	8
FY 03	38,179	312,483	350,662	8
FY 02	38,179	320,278	358,457	8
FY 01	38,179	302,735	340,914	8
FY 00	37,991	308,736	346,727	8
FY 99	45,768	308,736	354,504	8
FY 98	119,214	446,856	566,070	8
FY 97	154,424	458,882	613,306	11
FY 96	171,524	492,882	664,406	12
FY 95	171,524	520,020	692,544	15
FY 94	249,024	578,513	827,537	15
FY 93	248,934	510,060	758,994	15
FY 92	167,964	385,338	553,302	10
FY 91	169,685	302,080	471,765	10
FY 90	417,057	226,575	643,632	10
FY 89	70,000	86,000	156,000	4

Figure 2

Highlights from Fiscal Year 2006

Enforcement

Investigations of Government Agencies

OIP opened 22 investigations into the actions of government boards in FY 2006 following complaints made by members of the public or on OIP's initiative.

The following is a summary of some of the investigations completed in FY 2006.

Proposed Rules to Ban Alcohol at Aloha Stadium

The Stadium Authority formed a permitted interaction task force to investigate amending its rules to ban alcohol at Aloha Stadium. After the task force presented its findings and recommendations to the Authority and, at the same meeting, the Authority voted on those recommendations, a newspaper asked OIP whether the Sunshine Law required the Authority to delay for any specific period its deliberation and decision on any rule change recommended by the task force. OIP explained that, under the Sunshine Law, deliberation and decisionmaking on a matter presented by the investigative task force must occur at a duly noticed board meeting held subsequent to the meeting at which the findings and recommendations of the investigation are presented to the board. Thus, while there is no specific time period that the Authority must wait before decisionmaking, the Authority cannot vote on the task force's findings and recommendations at the same meeting at which those findings and recommendations are presented.



Council Members' Visit to China

A member of the public questioned whether four members of a county council violated the Sunshine Law by attending a conference in China and touring incinerator sites during the trip. After investigation, OIP determined that the council members' presentations at and participation in the conference did not involve council business, i.e., discrete proposals that were actually pending before the council or were likely to arise before the council. Rather, the matters discussed dealt largely with issues that the council had previously decided and were general in nature. Because the discussions at the conference did not involve council business, those discussions were not subject to the Sunshine Law.

OIP further determined that the council members' tours of solid waste facilities and discussions with a developer did not violate the Sunshine Law, because the council members split into pairs to separately tour different solid waste facilities and only two council members met with the developer. The members' discussions of those matters were thus permitted interactions under the Sunshine Law.

County Council Members Attending Social Event Held by Land Developer

A newspaper reported that a developer had invited several Maui County Council members to an extravagant dinner and the newspaper

questioned whether the council members had to comply with Sunshine Law requirements. OIP explained that, so long as there is no discussion of official business that was pending or was reasonably likely to come before the council, the Sunshine Law does not apply. Therefore, the council members attending the dinner can freely discuss, for instance, the weather and sports. The Council members, however, must avoid talking to more than one other council member about topics that are subject to the Sunshine Law requirements, i.e., council business.

UH Regents' "Working Lunch"

The University of Hawaii's Board of Regents filed an agenda announcing that the Regents would be taking a "working lunch," to which the public was not invited. Although this agenda announcement implied that the Regents were intending to continue the public portion of their meeting during the "working lunch," the Regents had recessed their public meeting before the "working lunch" and had convened an executive meeting. OIP concluded that the executive meeting was proper and that the "working lunch," during which the Regents considered the executive meeting items, did not violate the Sunshine Law.

Scope of Permitted Interaction Task Force

A board formed a permitted interaction task force under section 92-2.5(b)(1), HRS, to investigate a specific matter. The board subsequently assigned other matters to the task force, whose members continued to discuss and report to the full board on the additional matters over the course of more than two years. A member of the public asked OIP to investigate whether the task force's activities violated the Sunshine Law.

OIP determined that, once the task force gave its report to the board on the matter it was originally authorized to investigate, it had no authority to consider other matters outside of a board meeting. In the absence of another permitted interaction or other exception, discussion of board business between task force members should only have occurred in a properly noticed meeting of the board. *See Formal Opinions, p. 25.*

Executive Meeting for Sarbanes-Oxley Presentation

A reporter and a member of the public separately asked OIP to investigate whether the Board of Regents was entitled to convene an executive meeting to discuss general financial issues with its attorney. Specifically, in the executive meeting the Board heard a presentation by the University of Hawaii's Chief Financial Officer about the general requirements of the Sarbanes-Oxley Act of 2002 and discussed with its legal counsel the act's application to the Board and the University.

OIP determined that the general presentation on the Sarbanes-Oxley Act's requirements did not fall within any executive meeting purpose and should have been open to the public. However, the Board's discussion with its attorney of whether the University was meeting, or might be liable for a failure to meet, the Sarbanes-Oxley Act's standards with respect to specific University financial issues did pertain to the Board's duties and liabilities, and thus were properly discussed in an executive meeting.

Litigation Report

Under the UIPA, where an agency denies access to records or fails to comply with the provisions of the UIPA governing personal records, a person may bring an action for relief in the circuit courts. OIP has standing to appear in any action in which the provisions of the UIPA have been called into question.

OIP also monitors litigation that raises issues under the UIPA and the Sunshine Law. OIP reviews and assesses each case to determine whether to intervene. The following summarizes the cases that OIP was a party to or monitored in FY 2006.

❖ *New UIPA Cases:*

Serial One-on-One Communication

Right to Know Committee, et al., v. City Council, City and County of Honolulu, et al., Civil No. 05-1-1760-10 EEH (Circuit Court of the First Circuit). A number of public interest groups sued the City Council seeking a declaration that the Sunshine Law does not allow members of the Council to consider Council business through a series of private one-on-one discussions. The lawsuit was filed after Council members expressed their disagreement with OIP's opinion that the permitted interaction that allows two Council members to privately discuss Council business with each other cannot be used serially and their intent to continue privately discussing Council business through such serial one-on-one meetings. The State of Hawaii was allowed to intervene in the lawsuit.

After considering and rejecting the Council's argument, the circuit court granted Plaintiffs' Motion

for summary judgment, expressly finding that the Sunshine Law does not permit Council members to engage in serial one-on-one discussions about Council business unless such discussion is permitted by another provision of the statute. The Council has appealed the circuit court's decision. That appeal is pending. The State of Hawaii currently is not a party to the appeal.

Access to Records Maintained by the Department of Planning and Permitting

Nuuanu Valley Association v. City and County of Honolulu, et al., Civil No. 06-1-0501-03 (RKOL) (Circuit Court of the First Circuit). The Nuuanu Valley Association (the "Association"), a non-profit corporation whose members are homeowners and residents of Nuuanu Valley, filed a lawsuit under the UIPA against the City and County of Honolulu for access to certain records relating to a proposed subdivision project. The City's Department of Planning and Permitting ("DPP") had denied the Association's record request for access to, among other things, reports submitted to DPP by the developer's consultants that DPP had returned to the consultants with handwritten comments, asserting that many of the records were no longer in DPP's possession and, for those records that DPP did maintain, the records fell within the "deliberative process privilege" and, therefore, could be withheld under the UIPA's "frustration" exception.

In November 2006, the circuit court orally granted summary in favor of the City and County of Honolulu, finding that DPP did not "maintain" the requested records.

❖ *Continuing Cases:*

Status of Cable Access Providers

‘Olelo: The Corporation for Community Television, the public, educational, and government access provider for the island of Oahu, sued OIP in August 2004 for a declaratory judgment that ‘Olelo was not an “agency” for the purposes of the UIPA as OIP had found in Opinion Letter Number 02-08. In an order filed June 30, 2005, the First Circuit Court, applying a de novo standard of review, granted summary judgment, finding that ‘Olelo was not an “agency” for purposes of the UIPA. OIP appealed that decision. The parties have completed all briefing in the appeal, which focuses on the standard of review used by the court and the test used by the court to determine when a corporation is “owned, operated, or managed by or on behalf of this State. . .” as this language is used in the UIPA’s definition of an agency. No decision has yet been issued.

Executive Session Minutes

A reporter had requested executive session minutes of the Kauai County Council. After the Council failed to respond to his request, the reporter sought OIP’s assistance. Because the Council failed to provide any justification for withholding the records, OIP concluded that the Council had failed to meet its burden to justify withholding and therefore the records in question must be disclosed. Notwithstanding OIP’s determination, the Council refused to disclose the records, and the reporter subsequently filed suit against the Council in the Fifth Circuit (Kauai). In response to the lawsuit, the Council argued that portions of the minutes were protected by the attorney-client privilege. The court ultimately reviewed the minutes to determine which portions

were so privileged and ordered that the remainder be disclosed. The action was dismissed in July 2006 by agreement of the parties after disclosure of the redacted minutes.

Access to Personal Records

In the case of *Crane v. State of Hawaii*, Civ. No. 03-1-1699-08 (Circuit Court of the First Circuit), plaintiff alleged that the State knowingly and intentionally failed to provide him access to his time served credit sheet and to respond to his request to make corrections to that record as required by sections 92F-23 and 24, HRS. Plaintiff seeks an order compelling release and change of records, monetary damages and costs.

Return of Documents in Clean Water Enforcement Action

State of Hawaii v. Earthjustice, et al., Civ. No. 03-1-1203-06 (Circuit Court of the First Circuit). In this case, the Department of Health, Clean Water Branch (“DOH”) obtained six boxes of documents from a private landowner and associated entities in connection with an enforcement action on Kauai for violations of clean water laws.

DOH asserted, *inter alia*, that it inadvertently allowed Earthjustice to inspect and copy certain confidential documents protected from disclosure by state and federal law. DOH seeks the return or destruction of the copies made by Earthjustice.

Earthjustice filed a motion seeking to retain and use the documents, including select tax returns and return information, in related proceedings involving the parties. Due to a pending settlement, the parties have agreed to stay the proceedings.

Access to Council Minutes

Kauai County, et al. v. Office of Information Practices, et al., Civ. No. 05-1-0088 (Circuit Court of the Fifth Circuit). In 2005, the County of Kauai and the Kauai County Council filed a lawsuit against OIP seeking declaratory relief to invalidate OIP's decision that portions of the minutes of a Council executive meeting must be disclosed. The County and Council maintain, *inter alia*, that the executive meeting was proper, that the purpose for the meeting would be defeated if the minutes were disclosed and, therefore, that the entire minutes of the meeting can be withheld. OIP previously found that the majority of the matters actually considered by the Council during the meeting did not fall within the executive meeting purpose cited on the Council's agenda (or any other executive meeting purpose). For that reason, OIP determined that those portions of the minutes must be disclosed.

The case has been transferred to the Honorable Kathleen Watanabe, and trial is set to begin on October 22, 2007. Discovery is ongoing.

Implementation

Legal Assistance

Each year, OIP receives numerous requests for assistance from members of the public, employees of government agencies, and government board members.

In FY 2006, OIP received over 1,100 requests for assistance, including requests for general advice and guidance regarding application of and compliance with the UIPA and Sunshine Law; requests for assistance in obtaining records from government agencies; requests for investigations of actions of government agencies; requests for review of actions and policies of agencies and boards for violations of the Sunshine Law, the UIPA, or OIP's administrative rules; requests for information and forms; requests to resolve complaints; and requests for advisory opinions regarding the rights of individuals or the functions and responsibilities of the agencies and boards under the UIPA and the Sunshine Law.

Attorney of the Day Service – Timely Legal Advice

A majority of the requests to OIP come through its Attorney of the Day ("AOD") service. Over the past

eight years, OIP has received a total of 6,196 requests through its AOD service. See

Figure 3. In FY 2006, OIP received 720 inquiries through its AOD service.

The AOD service allows the public, agencies and boards to receive general legal advice from an OIP staff attorney, normally that same day or the following day. AOD requests are received by telephone, facsimile, e-mail, or in person.

Members of the public use the service frequently to determine whether agencies are properly responding to record requests or to determine if government boards are following the procedures required by the Sunshine Law.

Agencies often use the service to assist them in responding to record requests, in particular when addressing issues such as whether the agency has the discretion to redact information based upon privacy concerns. Boards also frequently use the service to assist them in navigating Sunshine Law requirements.

Where the issues involved are factually or legally complex, where mediation by OIP between the public and the agency or board is required, or where more specific advice or a more formal response is desired, requesters are instructed to submit a written request and a case file is opened.



AOD Requests

Fiscal Year	Total	Public	Government Agencies
FY 06	720	222	498
FY 05	711	269	442
FY 04	824	320	504
FY 03	808	371	437
FY 02	696	306	390
FY 01	830	469	361
FY 00	874	424	450
FY 99	733	336	397

Figure 3

Of the 720 AOD inquiries and requests received in FY 2006, 222 requests (31%) came from the public. Of those 222, 124 (56%) came from private individuals, 38 (17%) from media, 19 (8.5%) from public interest groups, 11 (5%) from private attorneys, 10 (4.5%) from businesses, 7 (3%) from Neighborhood Boards and 13 (6%) came from other sources. See **Figure 4** and **Figure 5**.

Of the 720 AOD requests received, 498 (69%) came from government agencies. See **Figure 6** and **Figure 7**.

AOD Requests from the Public FY 2006

Types of Callers	Number of Inquiries
Private Individual	124
Media	38
Public Interest Group	19
Other	13
Private Attorney	11
Business	10
Neighborhood Boards	7
TOTAL	222

Figure 4

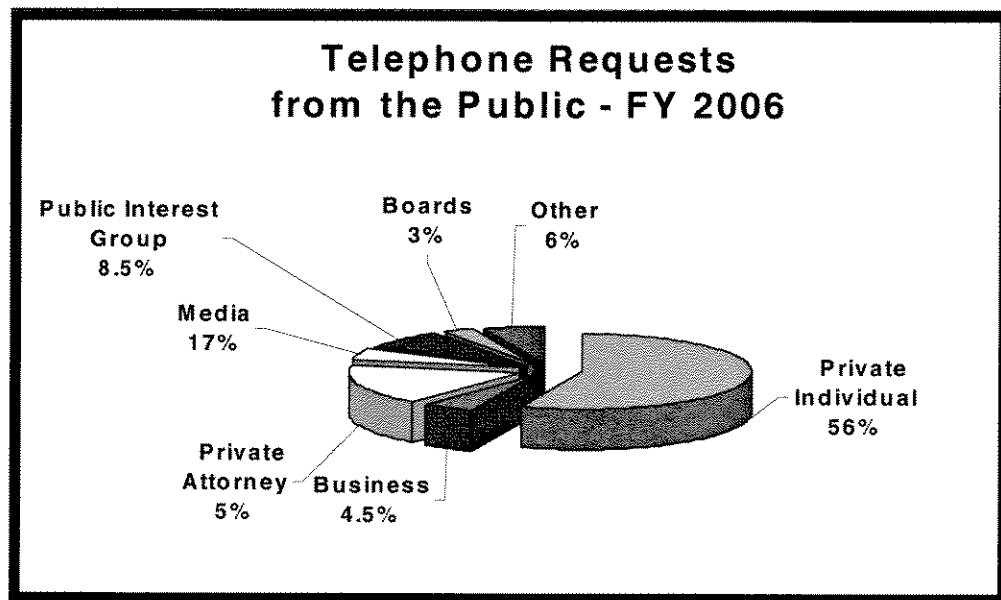


Figure 5

State Agencies

In FY 2006, OIP received a total of 388 AOD inquiries about state agencies. Over half of these requests concerned six state agencies: the Department of Land and Natural Resources (51), the Department of Health (46), the Department of Commerce and Consumer Affairs (40), the University of Hawaii System (36), the Department of Business, Economic Development, and Tourism (32), and the Department of Transportation (25).

OIP also received 14 inquiries concerning the legislative branch and 15 inquiries concerning the judicial branch. See **Figure 8**.

TELEPHONE REQUESTS FISCAL YEAR 2006

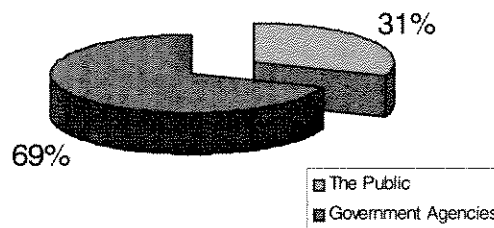


Figure 6

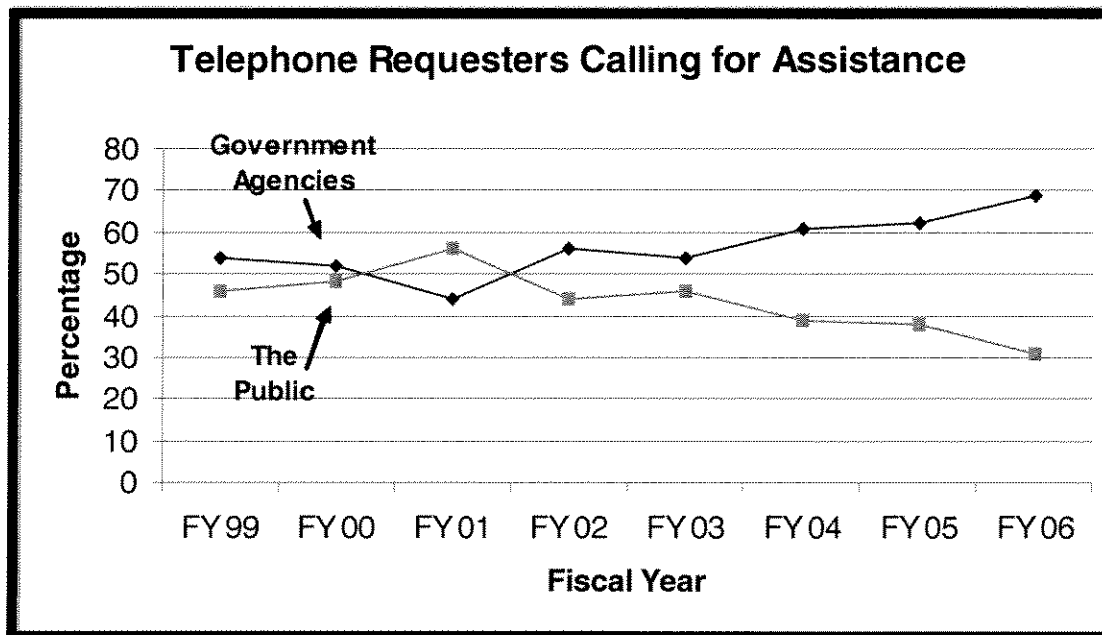


Figure 7

**Calls to OIP About
State Government Agencies
FY 2006**

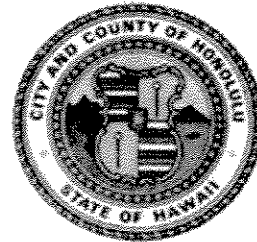
Executive Branch Department	Requests
Land and Natural Resources	51
Health	46
Commerce and Consumer Affairs	40
University of Hawaii System	36
Business, Economic Development, and Tourism	32
Transportation	25
Lieutenant Governor (including OIP)	17
Labor and Industrial Relations	16
Accounting and General Services	15
Agriculture	13
Public Safety	12
Human Services	11
Attorney General	11
Office of Hawaiian Affairs	9
Education (including Public Libraries)	8
Budget and Finance	7
Governor	4
Tax	2
Hawaiian Home Lands	3
Human Resources Development	1
TOTAL EXECUTIVE	359
TOTAL LEGISLATURE	14
TOTAL JUDICIARY	15
TOTAL STATE AGENCIES	388

Figure 8

County Agencies

OIP received 155 AOD inquiries regarding county agencies and boards. More than a third of these inquiries (61) concerned agencies in the City and County of Honolulu. Of these, the largest number of inquiries (19) concerned the Neighborhood Commission and Neighborhood Boards.

OIP received 94 inquiries regarding Neighbor Island agencies and boards: Hawaii County (38), Kauai County (37), and Maui County (19). See **Figures 9-12**.



Calls to OIP About City and County of Honolulu Government Agencies - FY 2006

Department	Requests
Neighborhood Commission/Neighborhood Boards	19
Board of Water Supply	6
Planning and Permitting	5
City Council	4
Police	4
Enterprise Services	3
Budget & Fiscal Services	2
City Ethics Commission	2
Corporation Counsel	2
Human Resources	2
Medical Examiner	2
Office of the Mayor	2
Civil Defense	1
Community Services	1
Emergency Services	1
Facility Maintenance	1
Fire	1
Liquor Commission	1
Human Resources	1
Transportation Services	1
TOTAL	61

Figure 9

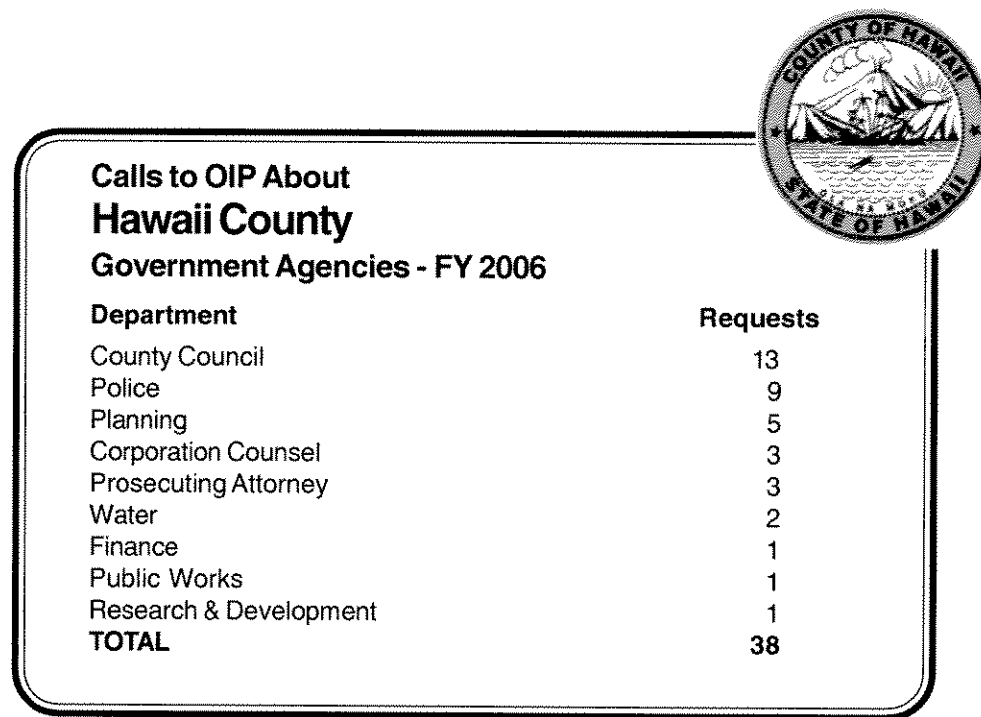


Figure 10

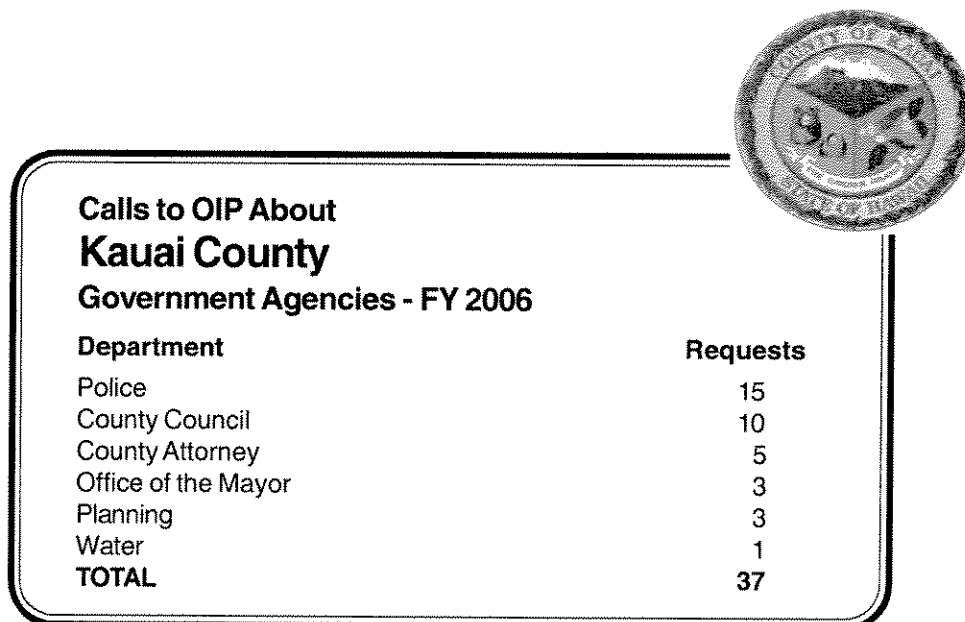
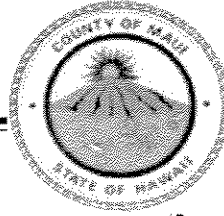


Figure 11



**Calls to OIP About
Maui County
Government Agencies - FY 2006**

Department	Requests
County Council	12
Finance	3
Planning	2
Police	1
Prosecuting Attorney	1
TOTAL	19

Figure 12

Requests for Assistance

In FY 2006, OIP received 59 formal requests for assistance from the public. OIP is generally asked by a member of the public for help in obtaining a response from an agency to a record request.

OIP staff attorneys will in these cases generally contact the agency to determine the status of the request, direct and instruct the agency as to the proper response required, and in some instances, will attempt to facilitate disclosure of the records.

Requests for Legal Opinions


Upon request, OIP provides written advisory opinions on issues under the UIPA and the Sunshine Law. In FY 2006, OIP received 82 requests for advisory opinions.

OIP issues a formal opinion letter, which is published and distributed, where a question raised has broad application and will provide useful guidance on the interpretation and application of the UIPA or the Sunshine Law. These formal opinion letters are distributed to:

- State and county agencies and boards
- WestLaw
- Michie, for annotation of the Hawaii Revised Statutes
- Person's or Entities on OIP's Mailing List

OIP also publishes summaries of the formal opinions in OIP's monthly newsletter, *OpenLine*, and on OIP's website. The website also contains an index for the formal opinions. Summaries of the formal opinions issued in FY 2006 are found in this report beginning on page 25.

OIP issues memorandum opinions where an issue raised has already been addressed in a prior formal opinion or where the opinion has limited application. Memorandum opinions are sent to the parties involved and are maintained as public records at OIP. Summaries of some of the memorandum opinions issued in FY 2006 are found in this report beginning on page 22.



<i>Type of Request</i>	<i>Number of Requests</i>
Request for Assistance	59
Request for Legal Opinion	82
Total Written Requests	141

Figure 13

These formal opinions are also available on OIP's website at www.hawaii.gov/oip.

Sunshine Law Report

OIP was given the responsibility for the administration of the Sunshine Law in 1998. Since that time, OIP has seen a large increase in the number of requests and complaints concerning this law. The annual number of requests increased from 223 in FY 2005 to 323 in FY 2006. See **Figure 15**.

Of the 720 AOD requests made in FY 2006, 271 involved the Sunshine Law and its application. OIP also opened 52 case files in response to written requests for opinions or investigations regarding the Sunshine Law. See **Figure 14**.

The rise in requests in recent years appears to be due in large part to a heightened awareness by both the public and government boards of the Sunshine Law's requirements as well as more diligent efforts by boards to comply with those requirements, both of which result in greater use of OIP as a resource.

To help government understand the complexities of the Sunshine Law, OIP continues to provide an

annual training to newly appointed board and commission members and their staff, as well as providing other training sessions throughout the year. See page 36 for a list of the sessions provided in FY 2006.

Sunshine Law Inquiries

<i>Fiscal Year</i>	<i>Telephone Inquiries</i>	<i>Written Inquiries</i>	<i>Total</i>
2006	271	52	323
2005	185	38	223
2004	209	17	226
2003	149	28	177
2002	84	8	92
2001	61	15	76
2000	57	10	67
1999	51	5	56

Figure 14

Sunshine Law Inquiries

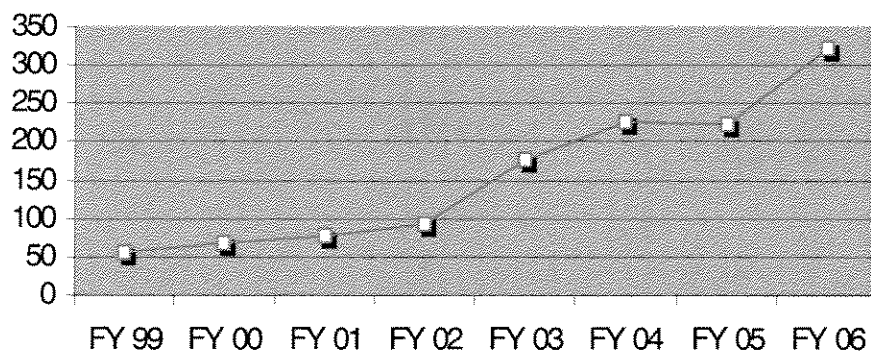


Figure 15

Case and Opinion Letter Summaries

The following summaries exemplify the type of legal assistance provided by OIP's staff attorneys through the AOD service, through memorandum opinions, and through formal opinions. Summaries of the formal opinions begin on page 25.

Public Testimony

The Kailua Neighborhood Board (the "Board") asked OIP for advice to remedy a Sunshine Law violation. The agenda for its meeting included an item stating "Notice of Board Vacancy and Election" and set forth the procedure the Board would be following to fill the vacant Board seat. Although the meeting was properly noticed, the Board took action to fill the vacant Board seat without giving members of the community the opportunity to testify on the issue despite the fact that some had signed up to do so.

OIP advised the Board that failure to allow members of the community the opportunity to testify on this agenda item was a violation of the Sunshine Law. To address this violation, OIP recommended that the Board reconsider this agenda item at its next or a future meeting. The matter should be listed on the agenda and the Board must accept public testimony with regard to the matter prior to taking action on that item.

Partly Confidential Records

An agency working on a business contingency plan wanted to include a listing of network sites, a network map, and direct contact information for information technology staff, to allow for faster information flow and quicker fixes of network problems. However, the agency was concerned that if that information were public it would allow people to hack the network and spam the information technology staff. The agency asked if it could potentially keep the sensitive information confidential by putting the information in a separate binder and stamping "confidential" all over it.

OIP advised that separating out the sensitive information from the rest of the plan and stamping "confidential" on the binder would not make the information confidential. OIP advised, however, that the sensitive information appeared to fall within the UIPA's exception for information whose disclosure would frustrate a legitimate government function and could be redacted from the record prior to disclosure.

E-mail and Electronic Databases

An agency asked whether e-mail on a government e-mail system is personal to the sender and receiver or is public. Another agency asked whether it was required to disclose a screen print of an internal database containing otherwise public information, since the agency also had a separate public database.

OIP advised that information maintained by a government agency in a tangible form – which includes electronic records – is considered to be a government record generally subject to the UIPA. Thus, work-related e-mails on a government e-mail system and internal agency databases are subject to the UIPA. The fact that a database or e-mail is intended for internal agency use does not by itself justify withholding. The information in the e-mail or in the database screen print must be protected by one of the UIPA's exceptions or the e-mail or database screen print must be disclosed. Personal e-mails not related to work are not considered government records.

addresses and telephone numbers may fall within the UIPA's exception for information whose disclosure would frustrate a legitimate government function. Specifically, if the prospect of public disclosure meant that the board member in question would be unwilling to provide useful contact information to the agency then disclosure of the private business address and telephone number would frustrate the agency's ability to obtain direct contact information for board members and, therefore, may be withheld.

Board Member Contact Information

An agency received a request for contact information for the members of an advisory board composed of community members. The agency told the requester that the board members could be contacted through the agency, but the requester wanted the board members' direct home or business contact information. Must the agency give out the direct contact information?

The government agency's business address and business telephone number for members of an agency advisory board are public and must be disclosed. An agency, however is not required to provide direct telephone or e-mail contact information for these individuals. For members of an advisory board who are not government employees, home addresses and telephone numbers generally may be withheld under the UIPA's privacy exception and their business

Adult Mental Health Division's Quality Council

The Adult Mental Health Division asked if its Quality Council ("Council") was a board as defined by the Sunshine Law and therefore, subject to the open meeting or other requirements of the Sunshine Law.

Under the test OIP adopted in Opinion Letter Number 01-01 to determine whether an entity is a board subject to the Sunshine Law, five distinct elements must be met. OIP determined in this case that the Council did not meet one element because it was not "created by constitution, statute, rule, or executive order." Instead, the Council was established by the Division for purposes of overseeing the Division's Quality Management Plan and to address quality improvement activities. As the Council did not satisfy the second required element OIP concluded that the Council was not a "board" subject to the requirements of the Sunshine Law.

Procurement Proposals

The State Procurement Office ("SPO") denied access to the proposals that it had received for an electronic voting and vote counting system because the records request was received during the evaluation and discussion stage of the procurement process. OIP found that SPO's denial of access complied with restrictions set forth in the Hawaii Public Procurement Code, chapter 103D, HRS, which prohibit disclosure of proposals' contents to competing offers during the process of negotiation and require that, in conducting discussions, there shall be no disclosure of any information from competing offerors' proposals. OIP thus found that the UIPA does not require the disclosure of the proposals during negotiations because the proposals are protected by state law, namely the Procurement Code.

Contract for Medical Laboratory Services

In response to a request for a copy of its contract for medical laboratory services, Hawaii Health Systems Corporation ("HHSC") redacted information regarding a "multiplier" used to calculate the compensation payable to the laboratory service provider and the specific discounts available to HHSC. OIP opined that, where an agency has contracted for the purchase of goods or services, the unit or component prices set forth in the contracts do not constitute confidential commercial and financial information that would be protected under the UIPA's "frustration" exception. OIP found that the compensation information did not reveal the provider's actual costs, profit margin, pricing strategies or other proprietary information that could be withheld from the public. Therefore, HHSC was required to publicly disclose its contract containing the compensation information that had been previously redacted.

DOE Arbitration Decision

The Department of Education ("DOE") asked for assistance in responding to a request from a third party for an arbitration decision regarding the termination for cause of a former teacher employed by DOE. According to DOE, the third party requesting the decision was a private school at which the discharged employee was currently seeking employment.

OIP informed the caller that the arbitrator's decision and award must be made available for public inspection and copying, provided that 30 calendar days had elapsed following the issuance of the arbitrator's decision affirming DOE's discharge of the employee. When an employee has been disciplined, suspended, or in this case, terminated, any privacy interest that the individual had in the information is not significant and the public interest in disclosure of the information outweighs the employee's privacy interest.

OIP Formal Opinion Summaries

OIP issued 312 formal advisory opinions from 1989 through the end of June 2006. In Fiscal Year 2006, OIP issued 8 formal opinions.

The following summarizes these formal opinions. The summaries should be used only as a broad reference guide. To fully understand an opinion, it is necessary to read the full text of the opinion. Summaries and the full text of all opinions are available at www.hawaii.gov/oip.

UIPA:

Crime Victim Compensation Commission Records Pertaining to Criminal Case

A convicted felon made a request to the Crime Victim Compensation Commission ("CVCC") for records pertaining to the criminal case that resulted in his conviction for murder and also resulted in an award of compensation to the victim's family. CVCC's only responsive record was a file in its computer database summarizing the application for and award of compensation. CVCC denied access to this record and the requester appealed the denial to OIP. OIP noted that information in a record may only be withheld if it falls under a specific exception to disclosure; if no exception applies, the information must be disclosed. In this case, assuming that the applicant was promised confidentiality, the applicant's identity could be withheld under the UIPA's exception for information whose disclosure would frustrate a legitimate government function.

Information regarding the deceased victim that was part of the public court record from the requester's trial could not be withheld under the UIPA's privacy exception. However, other information about the victim that was not already of public record could be withheld even though the victim was deceased. [Op. Ltr. No. 05-16].

Request for Emergency 911 Tape

The Hawaii County Police Department ("HCPD") received an emergency 911 telephone call concerning an "accidental stabbing." Authorities responding to the 911 call discovered the body of a 4-month old infant who had suffered a fatal stab wound. The infant's 16-year old mother was arrested and charged in Family Court with second degree murder in connection with the stabbing death of her son. HCPD denied a request for access to the 911 tape, and the requester appealed HCPD's denial to OIP.

The exception to disclosure relied upon by HCPD provides that an agency may withhold "[g]overnment records which, pursuant to State or federal law including an order of any State or federal court, are protected from disclosure[.]" Under state law, police department records relating to proceedings filed in the Family Court are confidential unless otherwise ordered by the court.

OIP ruled that, because state law requires confidentiality of the requested 911 tape in this instance, the UIPA allowed HCPD to deny access to the tape. [Op. Ltr. No. 05-17].

Library's Plantation Archive Records

OIP received a request for an opinion regarding the records received from the Hawaii Sugar Planters' Association that comprise the Plantation Archives at the University of Hawaii at Manoa Library (the "Library"). Specifically, the requester asked whether the records are accessible to the public and whether the Library may implement a policy of disclosing records created 80 years or more ago, regardless of potential issues regarding personal privacy interests.

In general, a policy allowing public access to records that are 80 or more years old is consistent with the UIPA. However, with respect to income tax records and any other records made confidential by statute, absent a specific statutory provision allowing disclosure of those records, OIP expressed the belief that the UIPA does not support a policy of disclosure and suggested that the Library consult with its legal counsel before implementing such a policy. [Op. Ltr. No. 05-18].

Student-Athlete Drug Testing Records

After the Athletic Department of the University of Hawaii withheld records relating to the Athletic Department's testing of student-athletes for banned substances, a newspaper appealed that denial to OIP. Specifically, the newspaper requested access to records relating to the number of student-athletes who tested positive and the specific actions taken by the Athletic Department with respect to those student-athletes.

Although OIP agreed that the student-athletes' privacy interests protected the identity of the student-athletes, because the request in this case specifically did not seek disclosure of the names

of the student-athletes, the question was whether the requested information would allow the public to reasonably determine the identity of a student-athlete who had tested positive for a banned substance.

With respect to the number of positive tests, OIP decided that the number of positive test results alone provided insufficient information from which someone could reasonably identify individual student-athletes who tested positive. OIP therefore concluded that the UIPA did not support the Athletic Department's denial of that information and directed that the Athletic Department disclose the total number of positive test results.

However, the breakdown of the specific sanctions imposed against the student-athletes who tested positive could, in OIP's opinion, reasonably allow the public to identify the student-athletes. OIP reasoned that, based upon the Athletic Department's representation that very few student-athletes received the same sanction as those who tested positive for a banned substance, all of the student-athletes receiving that sanction would be stigmatized, a clearly unwarranted invasion of the student-athletes' privacy interests. OIP thus determined that the Athletic Department was allowed to withhold the breakdown of actions taken against the student-athletes as a result of a positive test. [Op. Ltr. No. 06-03].

SUNSHINE:

Serial One-On-One Communications

The Chair of the City Council asked OIP to reconsider an earlier opinion that the Sunshine Law does not allow Council members to privately discuss the same council business through a series of private one-on-one discussions. OIP clarified its interpretation of the statute and reaffirmed its opinion on the matter.

Given the explicit language and purpose of the statute, the permitted interaction allowing two members to discuss board business outside of a noticed meeting cannot be read to allow the Council to use a series of one-on-one discussions to privately discuss the same Council business with more than one other Council member. Whether intended or not, such serial one-on-one communications circumvents the spirit and the requirements of the Sunshine Law. [Op. Ltr. No. 05-15].

Written Testimony Implicating Privacy Interests of a Third Party

The Office of the City Clerk, City and County of Honolulu (the "City Clerk"), sought an opinion on whether the UIPA requires disclosure of personal information contained in written public testimony submitted to the City Council where that information concerns an individual who did not submit the testimony.

OIP opined that the City Clerk may consider the privacy interests of a third party implicated in the testimony and may exercise its discretion to withhold portions of the testimony where the disclosure would be a clearly unwarranted invasion of the personal privacy of the third party. [Op. Ltr. No. 06-04].

Public Testimony

The Housing and Community Development Authority ("HCDA") asked OIP for an opinion on two issues regarding the public's right to testify at a meeting subject to the Sunshine Law. OIP concluded that public testimony on all agenda items may be taken at the beginning of a meeting; however, a board must allow a person to testify on as many of the agenda items as the person wishes. A testifier does not have the right to question board members under the guise of oral testimony. [Op. Ltr. No. 06-01].

Investigative Task Force Limitations

The Natural Energy Laboratory of Hawaii Authority's ("NELHA") Board of Directors formed a Finance Investigative Committee to investigate, as a permitted interaction, the charges to be used in negotiating the land rental rates with NELHA's tenants. A requester sought OIP's opinion on whether the Sunshine Law permitted the Committee to consider other financial matters beyond the scope of the investigation that it was created to perform outside of an open meeting. OIP determined that after the Committee reported back to the Board on the matter it was originally authorized to investigate it ceased to be an investigative task force under section 92-2.5(b)(1). The continued meetings by its members after that point were not permitted by section 92-2.5(b)(1) and, in the absence of any applicable permitted interaction or exception, should have been open to the public in the manner set forth by the Sunshine Law.

OIP noted that given the length of time that the Committee has been meeting without following the requirements of the Sunshine Law, it appears impossible for the Board to entirely “cure” the past violations. However, OIP determined that the Board should, at a minimum, make the minutes of and any other records relating to those closed meetings of the Committee publicly available [Op. Ltr. No. 06-02].

Legislation

One of OIP's functions is to make recommendations for legislative change to the UIPA and the Sunshine Law to clarify areas that have created confusion in application or to amend provisions that work counter to the legislative mandate of open government. OIP also provides assistance to government agencies, government boards, elected officials and the public in the drafting of proposed bills.

To provide for uniform legislation in the area of government information practices, OIP also monitors and testifies on proposed legislation that may impact the UIPA; the government's practices in the collection, use, maintenance, and dissemination of information; and the government boards' open meetings practices.

This past legislative session, OIP monitored and tracked 147 pieces of legislation.

OIP also introduced 6 bills to the Legislature; however, all of those bills were held or failed to pass committee reviews.

OIP Introduced Bills:

HB2402/SB2365 - Authorizing OIP to file an action in the circuit courts to compel an agency's compliance with a decision rendered under the UIPA.

HB2403/SB2366 - Setting forth OIP's powers and duties in administering the Sunshine Law, consistent with its powers and duties in administering the UIPA. Also requiring boards to comply with OIP's decision, and, if necessary, allowing OIP to obtain court enforcement of its decisions.

HB2404/SB2367 - Allowing two or more members of a board, but less than the number of members that would constitute a quorum, to discuss their individual positions relating to official board business at meetings of other boards or at public hearings of the Legislature, and to attend and participate in discussions at presentations, including seminars, conventions, and community meetings, that include matters relating to official board business.

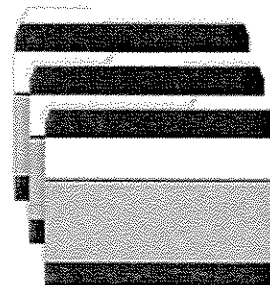


Agency Public Reports

The UIPA requires all state and county agencies to “compile a public report describing the records it routinely uses or maintains using forms prescribed by the office of information practices.” Haw. Rev. Stat. § 92F-18(b) (1993).

These public reports are filed with OIP and must be reviewed and updated annually. OIP is directed to make these reports available for public inspection.

The Records Report System



OIP developed the Records Report System (“RRS”), a computer database, to facilitate collection of information from agencies and to serve as a repository for all agency public reports.

From the beginning of 1994 when the first record report was added to the system up to July 1, 2006, state and county agencies have reported 33,677 records. See **Table 16**.

Records Report System

Status of Records Reported by Agencies: 2006 Update

Jurisdiction	Number of Records
State Executive Agencies	23,622*
Legislature	256
Judiciary	1,645
City and County of Honolulu	4,391
County of Hawaii	2,123
County of Kauai	844
County of Maui	796
Total Records	33,677

* Count includes 2,447 records still being edited by agencies and accessible only to those agencies, as of July 1, 2006.

Figure 16

RRS on the Internet

The RRS was developed as a Wang computer-based system. In 2003, the RRS was transferred to the Internet, creating a system accessible to both government agencies and the public.

In January 2004, OIP began meeting with state department RRS coordinators to initiate the updating process. OIP also prepared new data entry forms and materials and posted them on OIP's website.

Beginning in October 2004, the RRS has been accessible on the Internet through OIP's website. Agencies may access the system directly to enter and update their records data. Agencies and the public may access the system to view the data and to create various reports. A guide on how to retrieve information and how to create reports is also available on OIP's website.

Key Information: What's Public

The RRS requires agencies to enter, among other things, public access classifications for their records and to designate the agency official having control over each record. When a government agency receives a request for a record, it can use the RRS to make an initial determination as to public access to the record.

State Executive Agencies have reported 11,011 (52%) of their records as accessible to the public in their entirety; 3,812 (18%) as unconditionally confidential, with no public access permitted; and 5,082 (24%) in the category "confidential/conditional access." 1,270 (6%) are reported as undetermined. See **Figure 17**. In most cases, OIP has not reviewed the access classifications.

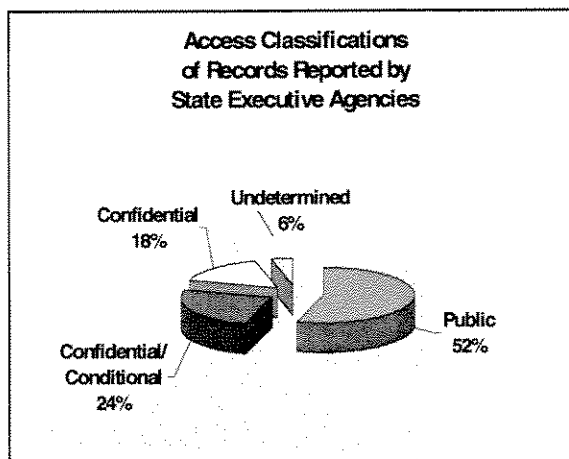


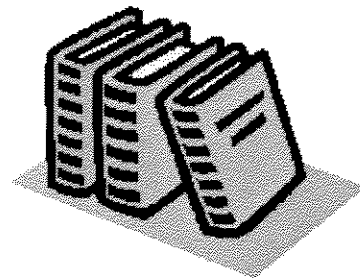
Figure 17

Records in the "confidential/conditional access" category are accessible after the segregation of confidential information, or accessible only to those persons, or under those conditions, described by specific statutes.

The RRS only lists government records and information and describes their accessibility. It does not contain the actual records. Accordingly, the record reports contain no confidential information and are public in their entirety.

Publications and Website

OIP's publications and website play a vital role in the agency's ongoing efforts to inform the public and government agencies and boards about the UIPA, the Sunshine Law, and the work of OIP.

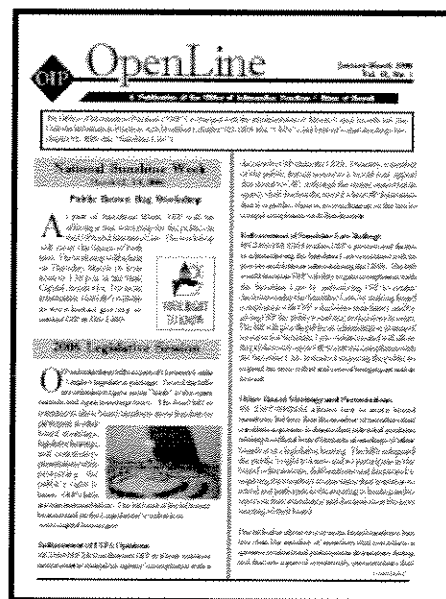


In FY 2006, OIP continued its traditional print publications, including its *OpenLine* newsletter, *Office of Information Practices Annual Report 2005*, and *Guide to Open Meetings*. In addition, OIP produced a UIPA guide for the public on accessing government records and a guide book called "Hawaii's Open Records Law" intended primarily to provide the non-lawyer agency official with an overall understanding of the UIPA and a step-by-step guide for application of the law. OIP's publications are available on OIP's website.

OpenLine

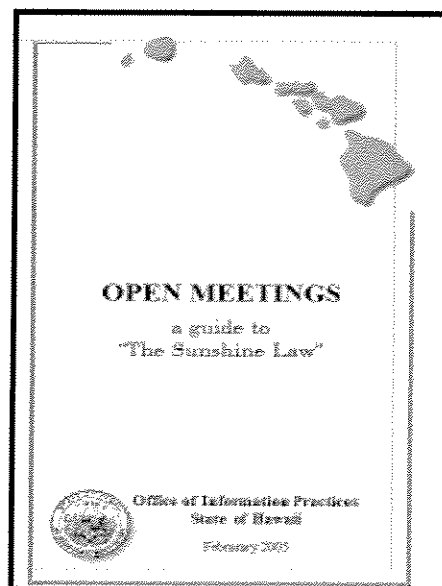
The *OpenLine* newsletter, which originated in March 1989, has always played a major role in OIP's educational efforts. The newsletter is sent to all state and county agencies, boards and commissions, and libraries throughout the State, as well as all other persons requesting the newsletter. This past year, OIP distributed over 3,500 copies of each issue of the *OpenLine* and also provided e-mail notification to those who prefer receiving the publication in electronic form.

Current and past issues of the *OpenLine* are also available on OIP's website. FY 2006 issues included summaries of recently published OIP opinions and information about OIP's legislative proposals, National Sunshine Week, an audit of selected state and county agencies' compliance with the UIPA conducted by a group of community organizations, and other issues relevant to OIP's mission.



Sunshine Law Guide

Open Meetings is a 52-page guide to the Sunshine Law intended primarily to assist boardmembers in understanding and navigating the Sunshine Law. The guide uses a question and



answer format to provide general information about the law and to cover such topics as meeting requirements, permitted interactions, notice and agenda requirements, minutes, and the role of OIP.

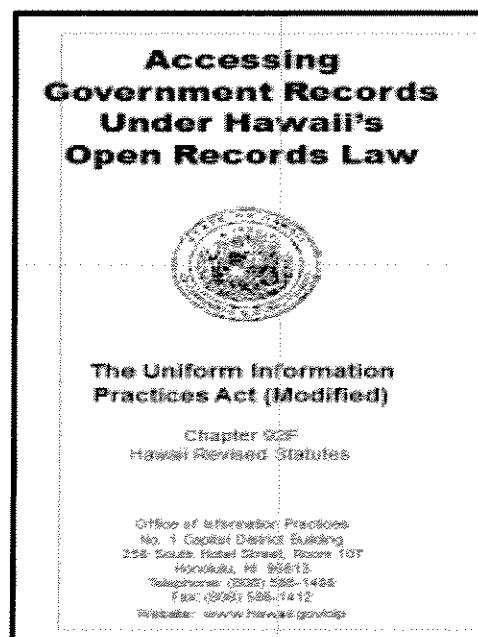
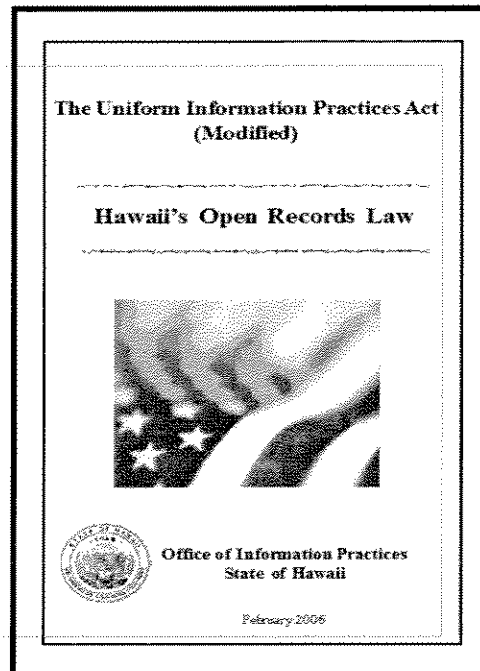
The guide also includes the full text of the Sunshine Law; the Sunshine Law Public Meeting Notice Checklist; an Executive Meetings Flowchart; summaries of OIP opinion letters related to the Sunshine Law; and the form Request for Attorney General's Concurrence for Emergency Meeting.

UIPA Guide

Hawaii's Open Records Law is a 36-page guide to the Uniform Information Practices Act and OIP's administrative rules. The guide directs agencies through the process of responding to a record request, including determining whether the record falls under the UIPA, providing the required response to the request, analyzing whether any of the exceptions to disclosure apply, and suggesting how the agency review and segregate the record. The guide also includes answers to a number of frequently asked questions.

Accessing Government Records Under Hawaii's Open Records Law

This three-fold pamphlet is intended to provide the public with basic information about the UIPA. It explains how to make a record request, the amount of time an agency has to respond to that request, what types of records or information can be withheld and any fees that can be charged for search, review, and segregation. The pamphlet also discusses what options are available for appeal if an agency should deny a request.



Model Forms

OIP has created model forms for use by agencies and the public.

To assist members of the public in making a records request to an agency that provides all of the basic information the agency requires to respond to the request, OIP provides a **“Request to Access a Government Record”** form. To follow the procedures set forth in OIP’s rules for responding to record requests, agencies may use OIP’s model form **“Notice to Requester”** or, where extenuating circumstances are present, the **“Acknowledgment to Requester”** form.

Members of the public may use the **“Request for Assistance to the Office of Information Practices”** form where their request for government records has been denied by an agency or to request other assistance from OIP.

To assist agencies in complying with the Sunshine Law, OIP provides a **“Public Meeting Notice Checklist.”**

All of these forms may be obtained online at www.hawaii.gov/oip.

OIP Website

OIP’s website has become an important means of disseminating information. The site plays a major role in educating and informing government agencies and citizens about access to state and county government records and meetings.

Visitors to the site can access, among other things, the following information and materials:

- The UIPA and the Sunshine Law statutes
- OIP’s administrative rules

- *OpenLine* newsletters
- OIP’s recent annual reports
- Model forms created by OIP
- OIP’s formal opinion letters
- Formal opinion letter summaries
- Formal opinion letter subject index
- General guidance for commonly asked questions

OIP’s website also serves as a gateway to websites on public records, privacy, and informational practices in Hawaii, other states, and the international community.

Features

OIP’s website features the following sections that may be accessed through a menu located on the left margin.

“Laws/ Rules/ Opinions”

This section features three sections:

- *Laws*: the complete text of the UIPA and the Sunshine Law, with quick links to each section. With an Internet browser, a user can perform a key word search of the law.
- *Rules*: the full text of OIP’s administrative rules (“Agency Procedures and Fees for Processing Government Record Requests”), along with a quick guide to the rules and OIP’s impact statement for the rules.
- *Opinions*: a chronological list of all OIP opinion letters, an updated subject index, a summary of each letter, and the full text of each letter.

“Forms”

Visitors can view and print the model forms created by OIP to facilitate access under and compliance with the UIPA and the Sunshine Law.

“OpenLine/ Guidance”

The monthly *OpenLine* newsletter is available online. Back issues, beginning with the November 1997 newsletter, are archived here and easily accessed. Online guidance includes answers to frequently asked questions from government agencies and boards and from members of the public.

“Reports”

OIP’s annual reports are available here for viewing and printing, beginning with the annual report for FY 2000. Other reports available include reports to the Legislature on the commercial use of personal information and on medical privacy. Viewers may also read about, and link to, the Records Report System.

“Related Links”

To expand your search, visit the growing page of links to related sites concerning freedom of information and privacy protection.

“Search”

Convenient Search Engine to search OIP’s website. Enter your search terms, phrases, OIP opinion letter number or subject matter in the box provided. A listing of relevant hits will display along with the date the page or document was modified as well as a brief description of the material.

“Records Report System (RRS)”

Shortcut link to the Records Report System online database.

“What’s New”

Lists current events and happenings at OIP.

The screenshot shows the homepage of the Hawaii Office of Information Practices. Annotations with arrows point to various features:

- Link to the State's home-page: state government** points to the [eHawaiiGov](#) logo.
- Link to the State's many online services** points to the [State Online Services](#) link.
- Link to important information about Hawaii** points to the [Hawaii Information Link Index](#).
- Find out when the site was last updated** points to the **Last updated October 31, 2006** text.
- Main menu: Link to laws, rules, opinions, forms, guidance, reports** points to the left-hand navigation menu.
- Contact information** points to the [Contact the OIP](#) link.

The website content includes a header with the [eHawaiiGov](#) logo and navigation links. The main heading is **Office of Information Practices**. A large graphic on the right features the Hawaiian flag and the text **Ensuring open government while protecting your privacy**. The left sidebar contains a menu with links: [Laws / Rules / Opinions](#), [Forms](#), [Openline / Guidance](#), [Reports](#), [Related Links](#), [Search](#), [Records Report System \(RRS\)](#), and [What's New](#). The main content area has a heading **Aloha!** and a welcome message: "Thank you for visiting the Office of Information Practices ('OIP'). The OIP administers Hawaii's open records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ('UIPA'). The OIP also advises, and accepts complaints, regarding Part I of chapter 92, Hawaii Revised Statutes (open meetings or 'Sunshine Law')." Below this is a [Contact the OIP](#) link. The footer contains links for [eHawaiiGov Home](#), [eHawaiiGov Terms of Use](#), and [eHawaiiGov Privacy Policy](#), along with a copyright notice: Copyright © 2006 State of Hawaii/eHawaiiGov - All rights reserved.

TRAINING IN 2006

Each year, OIP makes presentations and provides training on the UIPA and the Sunshine Law. OIP conducts this outreach effort as part of its mission to inform the public of its rights and to assist government agencies in understanding and complying with the UIPA and the Sunshine Law.



OIP conducted 40 training workshops in FY 2006. In October, OIP conducted training workshops on the Sunshine Law and UIPA for over 500 state employees, board and commission members and their staff. In addition, during Sunshine Week in March, OIP hosted a brown bag workshop to inform the public about the Sunshine Law. OIP was also invited to discuss recent opinions and other recurring issues at the Statewide Municipal Attorneys Training Conference in Kona. The following is a listing of the workshops and training sessions OIP conducted during FY 2006.

UIPA Training

OIP provided training sessions on the UIPA for the following agencies and groups:

- 07/07/05- DLNR/Burial Council-Oahu
- 07/12/05- DLNR/Burial Council-Big Island
- 07/15/05-DLNR/Burial Council-Molokai
- 07/19/05-DLNR/Burial Council-Maui
- 08/29/05- DOH-Office of Health Care Assurance
- 9/16/05-Statewide Municipal Attorneys Training Conference
- 9/20/2005- DOT (Oahu)
- 9/22/2005- DOT (Kauai)
- 9/23/2005- DOH-Environmental Health Services
- 10/26/2005- UIPA Training Workshop for State Agencies
- 10/28/05-UIPA Training Workshop for State Agencies
- 11/14/2005- DOT-Highway Division
- 11/16/2005- DLNR-Land Division (2 sessions)
- 1/5/2006- DCCA-Securities Enforcement Division
- 1/12/2006- DLNR-Boating and Recreational Division
- 2/15/2006- C&C Dept of Environmental Services
- 3/18/2006- League of Women Voters - Kauai
- 4/18/06- Hawaii County-Boards and Commissions (Hilo)
- 5/10/06- Hawaii County-Boards and Commissions (Kona)
- 06/02/06- Office of the Auditor

Sunshine Training

OIP provided training sessions on the Sunshine Law for the following agencies and groups:

- 07/07/05- DLNR/Burial Council-Oahu
- 07/12/05- DLNR/Burial Council-Big Island
- 07/15/05-DLNR/Burial Council-Molokai
- 07/19/05-DLNR/Burial Council-Maui
- 07/20/05- Citizen Advisory Committee (OMPO)
- 08/10/05- City Planning Commission
- 09/01/05- Dept of Agriculture (DOA)
- 9/20/2005- Judiciary-Center for Alternative Dispute Resolution
- 10/21/2005- Sunshine Training Workshop for State Agencies (2 sessions)
- 10/25/2005- Office of the Auditor
- 11/17/2005- Maui County Boards and Commissions
- 1/12/2006- DLNR-Boating and Recreational Division
- 3/15/2006- League of Women Voters - Hilo
- 3/16/2006-Public "Brown Bag" Workshop
- 3/18/2006- League of Women Voters - Kauai
- 4/18/06- Hawaii County-Boards and Commissions (Hilo)
- 5/10/06- Hawaii County-Boards and Commissions (Kona)
- 06/02/06- Office of the Auditor